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April 10, 2020

VIA ECF

Hon. Kevin N. Fox
United States Magistrate Judge
US Courthouse – S.D.N.Y.
40 Foley Square
New York, NY 10007

**Re: Actava TV, Inc., et al. v. Joint Stock Company “Channel One Russia
Worldwide” et al. (18-cv-06626)**

Dear Magistrate Judge Fox:

We’re responding to counsel for all defendants’ desperate attempt to distract the Court with not one but two separate letters to the Court yesterday, complaining about letters from our office and unilaterally raising brand new discovery issues for the Court.

The first letter, from Mr. Dowd, improperly unilaterally raised a new discovery issue without including our arguments about the revision to the Protective Order he sought based on a complete speculation about its future breach. To be clear, Mr. Dowd does not claim there has been any breach of the Court’s Protective Order. Nor does he establish any facts to justify their unfounded suggestion that either Mr. Lezhnev or Ms. Tsutieva will breach the Protective Order. Instead, Mr. Dowd grossly misrepresents before this Court that Ms. Tsutieva acts as “in-house counsel for Actava.” That is untrue. While Ms. Tsutieva is Plaintiff Rouslan Tsoutiev’s daughter, she is counsel at Foley Hoag LLP and joined in the defense of this litigation in 2019. The role she and Mr. Lezhnev have taken was not “hidden:” as General Counsel, Mr. Lezhnev appeared at court hearings herein from the outset. Ms. Tsutieva promptly entered a notice of appearance. Other than pure conjecture and unfounded suspicions, Defendants have nothing to support amending the Court’s prior court order, and their cited cases having nothing to do with this case. To avoid burdening the Court with this side issue, we are challenging Defendants’ improper “Attorneys Eyes Only” designation of the documents produced, which are normal company reports which make no reference to price or even dollar amount, in the fashion required by the Court’s protective order.

The second letter, signed by Mr. Akbar Kahn, attempts to recharacterize Defendants’ counsel’s unilateral obstruction of discovery and their silence in response to our attempts to resolve disputes as somehow justified. The Court must ensure Defendants’ firm is empowered to continue acting for Channel One Russia, one of the most important defendants herein, whose



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authority to the Dunnington firm expired nearly six weeks ago and was not renewed. In the second letter, Defendants' counsel again speculate that some unauthorized disclosure might occur, but none has occurred, and none ever could have.¹

Whatever distraction campaign Defendants' counsel are now pursuing by burdening the Court with multiple letters raising new "red herring" issues, the Court should see through it.

The only pressing question is by what authority Dunnington continues to act for both Channel One Russia and Kartina, despite their related litigation between each other, and despite Channel One Russia's written authorization having expired on March 1, 2020. How can plaintiffs conclude discovery, without seeing the unprivileged communications between them, and without knowing whether new defense counsel will have to be retained?

We appreciate the Court's patience with and attention to these matters.

Respectfully,
s/ Toby Butterfield
Toby Butterfield

Encs.

cc: All counsel (**via ECF**)

¹ Defendants' counsel also accuse us of disclosing discovery material on the public record by revealing the URL of a document discovery portal. This is another "red herring," as no one could access anything from that portal without a separate security access code that we did not reveal for obvious reasons. Once again, Defendants' counsel write complaining about disclosure that did not occur.